IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.123 OF 2006
IN
NOTICE OF MOTION NO.2771 OF 2005
IN
SUIT NO.2490 OF 2005

Parasnath s/o.Ramdular Singh — Appellant
vs.
Suresh Ramdular Singh — Respondent

Ms.Seema Gupta i/b.Mr.A.M.Saraogi for the appellant.

Mr.R.D.Soni with Mr.R.S.Champawat for the respondent.

CORAM : R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED : 3rd March 2006

P.C.

Heard Ms.Seema Gupta the learned counsel for the appellant.

2. It is true that the Award dated 13th July 2004 has been set aside in Arbitration Petition No.31/2005 but by consent of the parties their disputes and differences have been referred to the sole arbitration of Shri Justice A.B.Palkar(Retd.).

3. Since the disputes and differences between the parties are pending for adjudication before the Arbitrator, the Suit filed by the present appellant cannot be said to be proper and the motion taken out by

the plaintiff for interim relief was misconceived and rightly declined. Needless to say that it is always open to the plaintiff to apply for interim relief to the Arbitrator under the Arbitration and Conciliation Act, 1996.

4. As regards the award of costs, we are satisfied that the same deserves to be set aside and we order accordingly.

5. With the aforesaid observation, the appeal is disposed of.

(R. M. LODHA, J.)

(ANOOP V. MOHTA, J.)